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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/044,685	01/11/2002	Peter Ar-Fu Lam	B7HTAG	9707
7590	11/29/2005		EXAMINER	
Peter Ar-Fu Lam 20104 Wayne Ave. Torrance, CA 90503			FIDEI, DAVID	
			ART UNIT	PAPER NUMBER
			3728	

DATE MAILED: 11/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Advisory Action</b> <b>Before the Filing of an Appeal Brief</b>	<b>Application No.</b> 10/044,685	<b>Applicant(s)</b> LAM, PETER AR-FU	
	<b>Examiner</b> David T. Fidei	<b>Art Unit</b> 3728	

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 18 November 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☐ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
- (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ They raise the issue of new matter (see NOTE below);
- (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

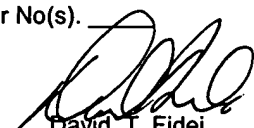
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
- The status of the claim(s) is (or will be) as follows:
- Claim(s) allowed: 10-17 and 28.
- Claim(s) objected to: \_\_\_\_\_.
- Claim(s) rejected: 18-21 and 23-27.
- Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: \_\_\_\_\_.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). \_\_\_\_\_.
13. ☒ Other: See Attached rejections.

  
 David T. Fidei  
 Primary Examiner  
 Art Unit: 3728

## Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 18-21 and 25-27 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. In claim 18 a display tag is said to comprise a folded flap engaged with the suspension member of the garment hanger. Since the disclosure of this flap is provided in figures 4 and 5 as 217, it is not seen how the display tag defines area for providing full frontal view of the garment hanger as claimed. Particularly where the display tag comprises a folded flap.

As to claim 25, the same analogy is applied as with that of claim 18. At least two separated fasteners are recited for providing full frontal view of the garment hanger. Since these fasteners obscure the part of the hanger to which they are attached, it is not seen how they provide full frontal viewing of the hanger.

## Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claim 23 is rejected under 35 U.S.C. 102(b) as being anticipated by Rahmey (Patent no. 6,209,763). A garment hanger retail package is provided comprising at least one garment hanger (20 or 40) and a display tag defined by panel 64 that is positioned behind a front side of the garment hanger, see figure 4. This panel 64 enables full frontal viewing of the front side of the garment hanger in that the panel is "behind" each hanger not obscuring any portion of the front. Attaching means defined by the folded section 70 or the folded section at 80 is provided that attaches the display tag with the garment hanger.

## Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 24 rejected under 35 U.S.C. 103(a) as being unpatentable over Rahmey (Patent no. 6,209,763). The difference between the claimed subject matter and Rahmey resides in the panels of the folded sections 70 or 80 providing a color similar to the color of the garment hanger. Rahmey does not disclose the relative colors of the packaged hangers to the card 60. In this regard, the particular color of the garment hangers, or the card front wall 64, is an obvious matter of design choice relating to ornamentation only that has no mechanical function. Accordingly, it would have been obvious and well within the level of ordinary skill in the art to construct the garment hangers and display card of any color desired, for the reason that such a change would have merely been a matter of design choice. In re Seid, 161 F.2d 229, 73 USPQ 431 (CCPA 1947), the court found that matters relating to ornamentation only which have no mechanical function cannot be relied upon to patentably distinguish the claimed invention from the prior art, see M.P.E.P. §2144.

7. Applicant's arguments filed November 18, 2005 have been fully considered but they are not persuasive. Applicant argues that the hanger of Markman can only be partially viewed from one side. No matter how it is rotated. The Examiner agrees. However, the same can also be said of applicant's invention. Particularly where tab 217 or strips 222/223 also fail to permit "full frontal" viewing. Rather than belabor the point that the prior art permits full frontal viewing to the extent disclosed, the Examiner will permit entering of the amendment with the claims standing as outlined above. If applicant wishes to resolve this outstanding issues Mr. Au-Fr Peter Lam is encouraged to contact the Examiner.